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December 14, 2018

**VIA ECF FILING**

The Hon. Clair C. Cecchi, U.S.D.J.  
United State District Court for the District of New  
Jersey  
M.L. King, Jr. Federal Building  
50 Walnut Street  
Newark, NJ 07102

Re: **Kongtcheu v. Secaucus Healthcare Center, LLC, et al.**  
Civil Action No.: 2:13-cv-1856-CCC-JAD

Dear Judge Cecchi:

This office represented Defendants, Secaucus Healthcare Center, LLC (improperly and separately plead as Hudson Manor HCC, Alaris Health at the Fountains North Campus, & Alaris Health); Avery Eisenreich, Toby Eisenreich, Erwin Pablo, and Paul Cohen in the above captioned action.

Please be advised that these Defendants join in Co-Defendant counsel's correspondence dated December 6, 2018. These Defendants filed a Motion to Dismiss with Prejudice on or about October 5, 2017, and join in seeking to have this matter dismissed in its entirety with prejudice.

Counsel writes separately to emphasize that this matter was initiated against our clients in March 2013, and to date, virtually no substantive factual discovery has occurred. During this time period, the Complaint has been amended no less than five times with no significant changes to the cause of action. These Defendants have, since the outset of litigation, proactively sought to have this matter dismissed for failure to state a cause of action. Defendants have moved to have the matter dismissed on multiple occasions, and as early as September 2013 (ECF 21). To date, the Court has only denied said motions without prejudice (ECF 36 & 86) to allow Plaintiff, a *pro se* litigant, an opportunity to cure substantive issues with his defective cause of action.

Nonetheless, since March 2013, Plaintiff has made virtually no effort to litigate this claim aside from exchanging preliminary written discovery. In the preceding five years, Plaintiff has not properly noticed or completed a single deposition, served an expert report, or even served a proper Affidavit of Merit.

Moreover, counsel for Co-Defendant correctly highlights that since the administrative dismissal of this action in November 2017, Plaintiff has taken no affirmative steps to prosecute this matter in any

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capacity. At this juncture, Plaintiff has been given multiple “bites at the apple” to move this case forward, and has chosen not to do so.

In light of the foregoing, Defendants Secaucus Healthcare Center, LLC (improperly and separately plead as Hudson Manor HCC, Alaris Health at the Fountains North Campus, & Alaris Health); Avery Eisenreich, Toby Eisenreich, Erwin Pablo, and Paul Cohen, respectfully request that this matter be dismissed with prejudice.

Thank you for your kind attention to this matter.

Respectfully Submitted,

/s/ S. Christopher Martino

S. Christopher Martino for  
LEWIS BRISBOIS BISGAARD & SMITH LLP

SCM

cc: Philibert Kongtcheu, *pro se*, via e-mail, certified, and regular mail  
Nicholas Ramassa, Esq.